

G,E-999/AA-92-1062; G,E-999/AA-93-682 ORDER GRANTING VARIANCES

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Marshall Johnson
Cynthia A. Kitlinski
Dee Knaak

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Review of 1992 Automatic
Adjustment of Charges for All Gas and Electric
Utilities

ISSUE DATE: May 25, 1994

DOCKET NO. G,E-999/AA-92-1062

In the Matter of the Review of 1993 Automatic
Adjustment of Charges for All Gas and Electric
Utilities

DOCKET NO. G,E-999/AA-93-682

ORDER GRANTING VARIANCES

PROCEDURAL HISTORY

On June 23, 1993, Western Gas Utilities, Inc. (Western or the Company) filed its 1991-1992 Auditor's Report. The Report had been due September 1, 1992.

On December 10, 1993, the Company filed its 1992-93 Auditor's Report which had been due September 1, 1993.

On March 24, 1994, Western Gas Utilities, Inc. (Western or the Company) filed time extension requests. First, the Company requested an extension for its 1991-1992 Auditor's Report until June 23, 1993. Second, the Company requested an extension until December 10, 1993 to file its 1992-93 Auditor's Report.

On April 15, 1994, Western supplemented its March 24, 1994 filings with a letter explaining why the filing dates were missed.

On April 20, 1994, the Minnesota Department of Public Service (the Department) filed its comments regarding the Company's requests. The Department recommended granting the necessary variances.

The matter came before the Commission on March 24, 1994.

FINDINGS AND CONCLUSIONS

The filing date for utilities' annual auditor's reports is set by Minn. Rules, Part 7825.2820. Western's late filings violated the requirements of that rule.

Minn. Rules, Part 7830.4400 provides for a variance from a requirement of any rule when the Commission finds that

1. denying the variance would produce an *excessive burden* on the Company or others affected by the rule;
2. granting the variance would not adversely affect the *public interest*; and

3. granting the variance would not conflict with *standards imposed by law*.

Excessive Burden

Denying the variance would make it impossible for the Company to comply with the annual auditor's report rule and leave the Company in a permanent state of noncompliance with respect to the filing deadline in those years.

In support of its request for a variance, the Company stated that the lateness of its filings was due to the fact that it had made some changes in its administrative and auditing system and also hired a new auditor. The Company explained that this led to confusion over who was responsible for filing the reports.

The circumstances of this case are unusual. Western's regulatory performance in a number of areas has occasioned extraordinary regulatory efforts to bring the Company along. In this instance, extra efforts to encourage the Company may well be the best approach. In these circumstances and in light of the Company's explanation of its non-compliance and assurance that it will file its Annual Reports on time in the future, it is the Commission's judgment that it would be excessive to leave the company permanently out of compliance with respect to these two filings.

Public Interest

In the Commission's view, bringing the Company into technical compliance by granting the variance would not harm the public interest. To the contrary, such a variance would in fact enhance the public interest. The variance would reestablish proper regulatory relations between the Company and the Commission in this regard and would encourage the Company to improve its compliance on this and other items.

Standards Imposed by Law

The Commission finds that granting such a variance would not conflict with standards imposed by law.

Commission Action

In sum, then, the Commission finds that the standards established by the variance rule have been met. Accordingly, the Commission will grant the variances as discussed and extend the filing dates for these particular filings, as requested. It is the hope of the Commission that the clean slate granted the Company on these matters will encourage the Company in its efforts to improve its regulatory performance, including the timely submission of required information.

ORDER

1. Western Gas Utilities, Inc.'s two extension requests are approved:
 - the due date for the Company's 1991-92 Auditor's Report is extended to June 23, 1993 and
 - the due date for its 1992-93 Auditor's Report is extended to December 10, 1993.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)